ISABELLE C. CHANG

IBLA 86-1235 Decided October 22, 1987

Appeal from a decision of the Alaska State Office, Bureau of Land Management, rejecting oil and gas lease offer AA-68226.

Affirmed.

1. Alaska: Oil and Gas Leases -- Oil and Gas Leases: Applications: 2,560-acre Limitation

   An oil and gas lease offer for lands in Alaska describing the lands sought as less than 2,560 acres or four full sections, whichever is larger, is properly rejected, unless the offer includes all available lands within the subject sections and there are no contiguous lands available for lease.

2. Oil and Gas Leases: Noncompetitive Leases

   While defective regular "over-the-counter" noncompetitive oil and gas lease offers may be cured prior to adjudication by BLM, defects may not be cured by submission of additional material after the proper rejection of the offer.

APPEARANCES: Isabelle C. Chang, pro se.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Isabelle C. Chang has appealed a May 16, 1986, decision of the Alaska State Office, Bureau of Land Management (BLM), rejecting her June 28, 1985, oil and gas lease offer (AA-68226), for lands described as sec. 21, T. 11 N., R. 5. W., Copper River Meridian, Alaska, containing approximately 640 acres. BLM rejected the offer because the tract described in the offer was too small to be accepted, pursuant to new acreage limitations set forth at 43 CFR 3110.1-3(a), stating: "Your offer is hereby rejected because it does not meet the minimum regulatory size limit of 2,560 acres and, at the time of filing, there were contiguous lands available for leasing."

In her statement of reasons appellant indicates she did not know of the change in the regulations. She asserts she would have been willing to acquire other parcels to meet the increased acreage requirements if she had known, and requests permission to amend the lease offer.

[1] The regulation governing lease offer size, 43 CFR 3110.1-3(a), as applied to oil and gas lease offers in Alaska, was amended January 15, 1985 (50 FR 2049), to provide, in pertinent part:

> Public domain lease offers in Alaska shall not be made for less than 2560 acres or 4 full contiguous sections, whichever is larger, where the lands have been surveyed under the rectangular survey system or are within an approved protracted survey, except where the offer or parcel includes all available lands within the subject sections and there are no contiguous lands available for lease.

As the Board recently noted in New Mexico & Arizona Land Co., 96 IBLA 178, 179 (1987), the preamble to the January 15, 1985, final rulemaking makes clear that the purpose of the amendment was to establish a "minimum acreage size" for a noncompetitive over-the-counter oil and gas lease offer. 50 FR 2048.

The record shows that there were contiguous lands available for leasing at the time appellant filed her offer and appellant could have included additional acreage in her offer and complied with the regulatory requirement. BLM properly rejected the offer for failure to describe minimum acreage. New Mexico & Arizona Land Co., supra.

It is unfortunate that appellant was not aware of this governing requirement when she first filed her lease offer. However, as BLM has correctly indicated, persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. Ward Petroleum Corp., 93 IBLA 267 (1986); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). Thus, compliance with the amended regulations was mandatory, even though appellant was apparently unaware of the amendment.

[2] Appellant seeks an opportunity to retain her offer if there is no additional acreage now available. Defective "over-the-counter" noncompetitive oil and gas lease offers may be cured prior to adjudication by BLM, but defective offers may not be cured with new priority by the submission of additional material subsequent to proper rejection of the offer by BLM. Gian R. Cassarino, 78 IBLA 242, 91 I.D. 9 (1984); cf. Inexco Oil Co., 93 IBLA 351 (1986). Accordingly, after BLM properly rejected appellant's lease offer because additional acreage was available at the time the offer was submitted, appellant no longer had an opportunity to amend her offer and change the effective date of filing so that the offer would comply with 43 CFR 3110.1-3(a) at the time of amendment.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

R. W. Mullen
Administrative Judge

We concur:

Wm. Philip Horton
Chief Administrative Judge

Will A. Irwin
Administrative Judge